

Message Text

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TO SECSTATE WASHDC 7399

C O N F I D E N T I A L KINSHASA 3320

JOINT STATE/AID MESSAGE

E.O. 11652: GDS

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SUBJECT: FAA SECTION 32 - POLITICAL PRISONERS

REF: STATE 068545

1. NEW PROVISION OF FAA OF 1973 CONCERNING INTERNMENT OR IMPRISONMENT OF CITIZENS FOR POLITICAL PURPOSES SHOULD NOT AFFECT STATUS OF ASSISTANCE PROGRAM IN ZAIRE BECAUSE THERE IS NO ESTABLISHED PATTERN HERE OF ARBITRARILY IMPRISONING OR INTERNING CITIZENS FOR POLITICAL PURPOSES. IN THE TWO RECENT COURT CASES WHERE POLITICAL CRIMES WERE CHARGED, TRIALS WERE CONDUCTED BY PROPERLY CONSTITUTED COURT AND ACCUSED ENJOYED PROTECTION OF LAW, INCLUDING RIGHT OF COUNSEL.

2. THE 1967 ZAIRIAN CONSTITUTION, PREAMBLE OF WHICH PROCLAIMS ADHERENCE TO UNIVERSAL DECLARATION OF HUMAN RIGHTS, GUARANTEES FREEDOM OF OPINION, EXPRESSION AND CONSCIENCE FOR ALL CITIZENS. CITIZENS ARE ENTITLED TO EQUAL TREATMENT UNDER LAW AND CANNOT BE ARRESTED, DETAINED OR PROSECUTED EXCEPT IN ACCORDANCE WITH LAW. POLICE CANNOT HOLD PERSON SUSPECTED OF COMMITTING CRIME MORE THAN 48 HOURS WITHOUT BRINGING FORMAL CHARGES. IN SO
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CALLED POLITICAL CASES--E.G., PERSON SUSPECTED OF CON-

SPIRING TO OVERTHROW GOVERNMENT (ARTICLE 176 OF PENAL CODE)--THE CND (SURETE) APPEARS TO HAVE MORE LATITUDE IN ARREST AND DETENTION. HOWEVER NO PATTERN OF ENFORCEMENT EXISTS THAT COULD BE LABELED CONSISTENT VIOLATION OF CONSTITUTIONAL GUARANTEES.

3. CHIEF ZAIRIAN POLICE ACTION WITH HUMAN RIGHTS OVER-TONES HAS BEEN ITS COOPERATION IN RECENT MONTHS WITH GRAE IN ROUNDUP OF ANGOLAN RESIDENTS IN ZAIRE FOR MILITARY SERVICE WITH ANGOLAN LIBERATION FORCES. GOZ VIEWS THIS AS FRIENDLY AND LEGITIMATE ASSISTANCE TO ALLIED GOVERNMENT ESTABLISHED IN ZAIRE. SOME OF THESE ANGOLANS WERE RELUCTANT RECRUITS AND VIEW UNHAPPILY THEIR STAY IN GRAE MILITARY TRAINING CAMPS.

4. ZAIRE HAS WELL DEVELOPED JURIDICAL SYSTEM BASED ON MODERN, WESTERN PRINCIPLES OF LAW. MAGISTRATES AND JUDGES ARE LAWYERS AND MEMBERS OF CAREER CIVIL SERVICE. CRIMES INVOLVING ARMED ROBBERY, SMUGGLING OR PRECIOUS STONES AND STATE SECURITY ARE TRIED BY SPECIAL STATE SECURITY COURT. TRIALS ARE CONDUCTED UNDER RULE OF LAW GOVERNING USE OF EVIDENCE, ETC. ACCUSED HAVE RIGHT TO COUNSEL AND ACCESS TO ALL EVIDENCE AND MATERIAL TO BE INTRODUCED AGAINST THEM. SINCE ITS INCEPTION IN SEPTEMBER 1973, THE SECURITY COURT HAS TRIED AND CONVICTED TWO GROUPS FOR CONSPIRING TO OVERTHROW THE GOVERNMENT AND FOMENTING SEPARATIST MOVEMENTS. THE FIRST GROUP OF 14 WAS CONVICTED IN OCTOBER 1973 (KINSHASA A-196) FOR PLOTTING TO SET UP AN INDEPENDENT STATE IN BAX ZAIRE REGION. SENTENCES RANGED FROM 10 YEARS IMPRISONMENT TO THREE MONTHS BASED ON DEGREE OF INVOLVEMENT. THE SECOND GROUP OF 7 FROM BANDUNDU REGION WAS FOUND GUILTY IN MARCH 1974 OF ESTABLISHING A POLITICAL PARTY UNDER THE GUISE OF A RELIGIOUS SECT WITH THE AVOWED GOAL OF OVERTHROWING THE GOVERNMENT. FIVE MEN WERE SENTENCED TO 10 YEARS IN PRISON FOR DIRECT INVOLVEMENT IN THE PLOT. TWO MEN WERE GIVEN 2 YEARS UNDER ARTICLE 215 OF THE PENAL CODE FOR NOT DENOUNCING THE PLOTTERS.

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5. ARBITRARY ARREST AND IMPRISONMENT WERE NOT UNKNOWN DURING CHAOTIC PERIOD FOLLOWING ZAIRIAN INDEPENDENCE. SINCE THEN, COUNTRY HAS ACHIEVED POLITICAL STABILITY AND UNITY UNDER PRESIDENT MOBUTU THANKS MAINLY TO POLITICAL AND ECONOMIC ENVIRONMENT OF ZAIRE WHICH ENCOURAGE THE RULE OF LAW AND THE STRENGTHENING OF FREEDOM AND OPPORTUNITY INCLUDE ZAIRE'S ACCEPTANCE AND RELIANCE UPON A MODERN WESTERN SYSTEM OF LAW AND JURIS-

PRUDENCE, AND THE GROWING NUMBER OF YOUNG PEOPLE WHO
ARE UNIVERSITY EDUCATED, TRAVELED AND CONVERSANT WITH
MODERN CNCEPTS OF GOVERNMENT AND JUSTICE. MOREOVER,
THE CONCEPT OF THE DIGNITY OF MAN IS ROOTED IN THE
ZAIRIAN CONSTITUTION AND IS A KEYSTONE IN THE POLITICAL
PHILOSOPHY OF THE MOBUTU GOVERNMENT.
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